

FILED

DEC - 9 2013

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIAUNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re)	Case No. 13-27293-E-7
)	
CHRISTOPHER BECK CROSBY and)	
TANA MARIE CROSBY,)	
)	
Debtor(s).)	
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JAIME SANDOVAL and)	Adv. Pro. No. 13-2306
MARY SANDOVAL,)	
)	
Plaintiff(s),)	
v.)	<u>Pretrial Conference</u>
)	DATE: October 15, 2014
CHRISTOPHER BECK CROSBY,)	TIME: 2:30 p.m.
)	DEPT: E
Defendant(s).)	
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SCHEDULING ORDER

A status conference in the above-captioned adversary proceeding was held at 2:30 p.m. on December 4, 2013. Appearances were as stated on the record. The status conference was the scheduling conference to which reference is made in Federal Rules of Civil Procedure ("FRCP") 16 and 26, which are incorporated in Federal Rules of Bankruptcy Procedure ("FRBP") 7016 and 7026. Except where necessary for clarity, subsequent references to rules will be made only to the FRCP.

Pursuant to FRCP 16(b), it is hereby

ORDERED, that, pursuant to FRCP 26(d), the parties may seek discovery from any source.

1 **ORDERED**, that the following schedule is established for this
2 Adversary Proceeding:

3 Last date to make initial disclosures: December 12, 2013

4 Last date to disclose experts: May 16, 2014

5 Last day to exchange expert reports: May 16, 2014

6 Close of Non-Expert Witness Discovery
7 [including hearing all discovery
8 motions - to be set on the court's
9 regular law and motion calendar]: June 6, 2014

10 Close of Expert Witness Discovery
11 [including hearing all discovery
12 motions - to be set on the court's
13 regular law and motion calendar]: July 18, 2014

14 Dispositive motions heard by [to be
15 set on the court's regular law
16 and motion calendar]: August 28, 2014

17 Pretrial Conference: October 15, 2014
18 at 2:30 p.m.

19 **COMPLIANCE WITH ALL FEDERAL RULES OF**
20 **BANKRUPTCY PROCEDURE AND LOCAL RULES OF COURT**

21 **ORDERED**, that all parties, regardless as to whether
22 represented by an attorney or in pro per, shall comply with the
23 Federal Rules of Bankruptcy Procedure, Local Rules of Practice, and
24 all General Orders of the Court. The Local Rules of Practice and
25 General Orders may be reviewed at the Bankruptcy Court's website at
26 www.caeb.uscourts.gov or may be obtained at the court clerk's
27 office.

28 **CLOSE OF DISCOVERY**

ORDERED, that close of discovery means that all discovery in
this adversary proceeding of the designated kinds shall be
completed by the date set forth above. The word "completed" means
that all discovery shall have been conducted such that all

1 depositions (including expert depositions, if any) have been taken,
2 interrogatories answered, documents produced, admissions made, and
3 any disputes relative to discovery shall have been resolved by
4 appropriate order, if necessary, and, where discovery has been
5 ordered, compliance with the order has been achieved in all
6 respects.

7 **DISCOVERY DISPUTES**

8 **ORDERED**, that discovery disputes may be raised pursuant to
9 FRCP 26 and 37. The parties involved in all such motions shall
10 certify that they have met and conferred regarding the dispute and
11 have made a reasonable effort to reach agreement on disputed
12 matters.

13 The good faith requirement imposed by FRCP 37(a)(1)
14 contemplates, among other things, that the parties meaningfully
15 discuss the discovery dispute, and make a bonafide, good faith
16 effort to resolve the dispute without court action. Good faith
17 cannot be shown merely through the perfunctory parroting of
18 statutory language on the certificate. The court will expect the
19 parties to comply with the meet and confer standard set for in
20 *Leimbach v. Thomas W. Lane*, 302 B.R. 75 (Bankr. ID 2003). If the
21 moving party has failed to satisfy the meet and confer requirement
22 of FRCP 37(a)(1), the court will generally summarily deny the
23 motion.

24 **ORDERED**, that if a party files a motion with reference to a
25 discovery dispute, the times specified in Local Rule 9014-1 are
26 hereby shortened, so that, unless otherwise ordered, any hearing on
27 a discovery dispute may be set for not less than ten (10) calendar
28 days from the date of filing or service of the notice and

1 supporting papers, whichever is later, except that motions on a
2 dispute relating to the conduct at depositions may be made, subject
3 to the court's availability, by telephone at the time of
4 deposition. If a motion regarding a discovery dispute is set on
5 less than 28 days' notice, the responding party need not file
6 opposition, but may appear at the hearing and oppose the motion.
7 In this event the court may allow further time for the responding
8 party to file written opposition.

9 **ORDERED**, that discovery motions that are heard on written
10 motion will be heard on any law and motion date for Chapter 7 and
11 Chapter 11 matters. These dates are periodically published on the
12 court's Self-Set Calendar which is available on the court's
13 webpage, www.caeb.uscourts.gov.

14 **ORDERED**, that if a party files a motion with reference to a
15 discovery dispute, evidence from both parties of their fees and
16 expenses incurred in preparation of the motion should be presented
17 so the court may make an award contemporaneously with its ruling on
18 the discovery motion, as contemplated by FRCP 37(a)(4).

19 **MOTIONS**

20 **ORDERED**, that required motions, including dispositive motions,
21 must be heard by the date(s) set forth above. If any party
22 believes or has asserted by way of affirmative defense that all or
23 any part of the complaint or a counterclaim fails to state a claim
24 upon which relief can be granted, such party shall schedule (on
25 normal notice) a hearing on a motion asserting that contention by
26 the date set forth above if applicable. Failure to schedule such
27 a motion by the date set forth above constitutes a waiver of the
28 contention that all or any part of the complaint or counterclaim

1 fails to state a claim upon which relief can be granted.
2 Dispositive motions shall be determined on declarations pursuant to
3 FRBP 7056 and 9017 and FRCP 43(e) and 56.

4 **PRETRIAL CONFERENCE**

5 **ORDERED**, that a pretrial conference is set by the court for
6 **October 15, 2014, at 2:30 p.m.** to be held in Courtroom 33, United
7 States Courthouse, 501 I Street, Sixth Floor, Sacramento,
8 California.

9 **PRETRIAL STATEMENTS**

10 **ORDERED**, that a pretrial statement must be filed and served by
11 each party no later than seven court days prior to the scheduled
12 pretrial conference. Each party's pretrial statement shall state
13 the name of the party or parties on whose behalf it is presented
14 and set forth the nature of the action and the following matters,
15 under the following captions, and in the following order:

16 (1) Jurisdiction-Venue. The factual and statutory basis
17 of federal jurisdiction and venue, whether there is any dispute
18 concerning jurisdiction or venue, and whether this is a core
19 proceeding.

20 (2) Undisputed Factual Issues. A plain, concise
21 statement of each element of each claim or defense that is
22 undisputed and does not require proof at trial. The parties shall
23 have, or be prepared to state at the pre-trial conference, all of
24 the undisputed facts for which an agreed statement of facts shall
25 be executed and filed within 10 days of the completion of the pre-
26 trial conference.

27 (3) Disputed Factual Issues. A plain, concise statement
28 of each element of each claim or defense (and any related essential

1 facts) that is disputed and that requires proof at trial.

2 (4) Disputed Evidentiary Issues. A plain, concise
3 summary of any reasonably anticipated disputes concerning
4 admissibility of evidence.

5 (5) Relief Sought. The elements of monetary damage, if
6 any, and the specific nature of any other relief sought.

7 (6) Points of Law. A statement of the legal theory or
8 theories of recovery or of defense and of any points of law
9 (substantive or procedural) that are or may reasonably be expected
10 to be in controversy, citing the pertinent statutes, rules, cases,
11 and other authorities relied upon. Extended legal argument is not
12 required in the pretrial statement.

13 (7) Abandoned Issues. A statement of all issues raised
14 by the pleadings that have been abandoned, including, for example,
15 claims for relief and affirmative defenses.

16 (8) Witnesses. A list (names and addresses) of all
17 prospective witnesses, and designating those who are expert
18 witnesses. Only witnesses so listed will be permitted to testify
19 at trial, except true rebuttal witnesses in the court's discretion
20 and except as otherwise provided by the pretrial order. Unless the
21 court directs otherwise, the alternate direct testimony procedure
22 (direct testimony submitted by declaration) will be used at trial,
23 and all witnesses shall be presented for live direct and cross-
24 examination.

25 (9) Exhibits - Schedules and Summaries. A list of
26 documents or other exhibits that the party expects to offer at
27 trial, except documents or other exhibits used solely for
28 impeachment. Only exhibits so listed may be offered at trial,

1 expect documents or other exhibits used solely for impeachment.
2 Only exhibits so listed may be offered at trial, except as other
3 provided in the pretrial order.

4 (10) Discovery Documents. A list of all deposition
5 excerpts, answers to interrogatories, and responses to requests for
6 admissions that the party expects to offer at trial.

7 (11) Further Discovery or Motions. Any requests for
8 further discovery or pretrial motions shall set forth the grounds
9 for relief from this scheduling order. Requests for relief from
10 this scheduling order are not favored and will ordinarily be denied
11 unless the moving party makes a strong showing of diligence in
12 complying with this scheduling order.

13 (12) Stipulations. Any stipulations requested or offered
14 for pretrial or trial purposes.

15 (13) Amendments - Dismissals. Any requests for
16 amendments to pleadings, dismissals, additions, or substitutions of
17 parties shall set forth the grounds for relief from this scheduling
18 order. Requests for relief from this scheduling order are not
19 favored and will ordinarily be denied unless the moving party makes
20 a strong showing of diligence in complying with this scheduling
21 order.

22 (14) Agreed Statements. A statement whether presentation
23 of all or part of the action upon an Agreed Statement of Facts is
24 feasible and advisable.

25 (15) Attorney's Fees. A statement whether attorney's
26 fees are sought and the basis therefor.

27 (16) Miscellaneous. Any other appropriate comments,
28 suggestions, or information that might aid in the disposition of

1 the action, including reference to any matters set forth in Federal
2 Rule of Civil Procedure 16 (c) and Federal Rule of Bankruptcy
3 Procedure 7016.

4 (17) Estimated Time for Trial. A statement with the
5 estimated time needed for trial.

6 **MODIFICATION**

7 **ORDERED**, that this scheduling order may be modified, for
8 cause, only on the motion of a party or on a court-approved
9 stipulation among all parties. Except for motions made and
10 stipulations presented within thirty days after the date hereof
11 based on conflicts created by the dates chosen by the court,
12 requests for relief from or modification of this scheduling order
13 are not favored and will ordinarily be denied unless the moving
14 party makes a strong showing of diligence in complying with this
15 scheduling order.

16 **SANCTIONS FOR FAILURE TO COMPLY**

17 **ORDERED**, that if any party fails to comply with any provision
18 of this order, the court may issue sanctions as appropriate and
19 commemorated under FRCP, Local Rules of Practice, or other
20 applicable statute, or orders, or rules.

21 Dated: December 9, 2013

22
23 
24 Ronald H. Sargis, Judge
25 United States Bankruptcy Court
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27
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Instructions to Clerk of Court

Service List - Not Part of Order/Judgment

The Clerk of Court is instructed to send the Order/Judgment or other court generated document transmitted herewith to the parties below. The Clerk of Court will send the Order via the BNC or, if checked , via the U.S. mail.

Debtor(s), Attorney for the Debtor(s), Bankruptcy Trustee (if appointed in the case), and
XX Other Persons Specified Below:

Office of the U.S. Trustee
Robert T. Matsui United States Courthouse
501 I Street, Room 7-500
Sacramento, CA 95814

Sean Gavin
3841 North Freeway Blvd., #185
Sacramento, CA 95834